

# *Federal Judge Overturns California's 32-Year Assault Weapons Ban*

The judge said the ban was a “failed experiment.” California’s governor called the ruling “a direct threat to public safety.”



By Mike Ives

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A federal judge in California on Friday overturned the state’s three-decade-old ban on assault weapons, which he called a “failed experiment,” prompting a sharp retort from the state’s governor.

California prohibited the sale of assault weapons in 1989. The law was challenged in a suit filed in 2019 against the state’s attorney general by plaintiffs including James Miller, a California resident, and the San Diego County Gun Owners, a political action committee.

The judge, Roger T. Benitez of the U.S. District Court for the Southern District of California, wrote that sections of the state’s penal code that defined assault weapons and restricted their use were “hereby declared unconstitutional and shall be enjoined.”

But the judge said he had granted a 30-day stay of the ruling at the request of Attorney General Rob Bonta, a move that would allow Mr. Bonta to appeal it.

Judge Benitez wrote that the case was about “what should be a muscular constitutional right and whether a state can force a gun policy choice that impinges on that right with a 30-year-old failed experiment.”

“It should be an easy question and answer,” Judge Benitez, who was nominated by former President George W. Bush, continued. “Government is not free to impose its own new policy choices on American citizens where constitutional rights are concerned.”

The judge wrote that the firearms banned under the state’s law were not “bazookas, howitzers or machine guns,” but rather “fairly ordinary, popular, modern rifles.”

In a statement late Friday, Gov. Gavin Newsom called the ruling “a direct threat to public safety and the lives of innocent Californians.”

Mr. Newsom also criticized the opening lines of Judge Benitez’s decision, in which he wrote that, like a Swiss Army knife, the AR-15 assault rifle “is a perfect combination of home defense weapon and homeland defense equipment.”

The AR-15 re-entered the American gun market in 2004 after the end of a federal assault weapons ban. It has a national following among gun owners, but it has also been used in mass shootings and vilified by its critics as a weapon of mass murder.

Mr. Newsom wrote that comparing the gun to a Swiss Army knife “completely undermines the credibility of this decision and is a slap in the face to the families who’ve lost loved ones to this weapon.”

In a separate statement, Mr. Bonta called Judge Benitez’s decision “fundamentally flawed” and vowed to appeal it.

“There is no sound basis in law, fact or common sense for equating assault rifles with Swiss Army knives — especially on Gun Violence Awareness Day and after the recent shootings in our own California communities,” he said.

Gun rights activists celebrated.

Brandon Combs, the president of the Firearms Policy Coalition, a group in Sacramento that helped bring the lawsuit to court, said in a statement that the ruling “held what millions of Americans already know to be true: Bans on so-called ‘assault weapons’ are unconstitutional and cannot stand.”

Alan M. Gottlieb, founder of the Second Amendment Foundation, another group that was involved in the lawsuit, said in a statement that the judge’s ruling had “shredded California gun control laws regarding modern semiautomatic rifles.”

“It is clear the judge did his homework on this ruling, and we are delighted with the outcome,” added Mr. Gottlieb, whose group is based in Washington State.

Judge Benitez was appointed as a district court judge in 2003 and confirmed by the Senate the following year.

In 2017, he blocked a new California law that would have banned magazines of more than 10 rounds. A three-judge panel from the U.S. Court of Appeals for the Ninth Circuit upheld his ruling last year in a split decision, but the appeals court said in February that an 11-judge panel would rehear the case.

Some critics of the judge’s latest ruling, including Anthony Rendon, the speaker of the California Assembly, noted an irony: It was handed down on National Gun Violence Awareness Day, an annual project organized by groups that advocate for tougher gun laws.

The ruling is “alarming and wrong,” said Ari Freilich, the state policy director at the Giffords Law Center to Prevent Gun Violence, a group led by Gabrielle Giffords, the former representative from Arizona who was shot a decade ago. “It’s also an insult to families across the nation, on today of all days, who have seen in the most painful way possible how dangerous and deadly assault weapons are.”

Michael Levenson, Thomas Fuller and Shawn Hubler contributed reporting.